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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,006	11/26/2003	Takashi Ichikawa	1018.1195101	9574

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EXAMINER

CHIN, GARY

ART UNIT PAPER NUMBER

3661

DATE MAILED: 07/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/723,006

Applicant(s)

ICHIKAWA ET AL.

Examiner

Gary Chin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4-10 and 12 is/are rejected.
- 7) ☐ Claim(s) 2-3 and 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/26/03</u> . | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1, 4-5 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Japanese Patent Application 2002-311333 in view of Lemelson et al (patent no. 6400835).

As per claims 1 and 12, as admitted by applicants on page 1 of the instant specification, the aforementioned Japanese Patent Application (see fig. 4) teaches a controller of a vehicle having an engine for use with an authorized key (such as a portable device) having a communication function to communicate with the controller (with a microcomputer contained therein) and to enable the starting of the engine when the communication is established between the authorized key (or portable device) and the controller. The difference between the claimed invention and that disclosed in the Japanese Patent Application is that the latter does not disclose

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a recognizer to image a vehicle occupant and verify whether the vehicle occupant is an authorized user prior to enable the starting of the engine. However, such missing feature in the Japanese Patent Application is well known in the art and clearly taught in figures 1-4 (see items 12, 52, 54, 56 and columns 10-13) of the Lemelson et al reference. A person having ordinary skill in the art would have been motivated to incorporate such well-known recognizer, based upon the teaching found in Lemelson et al, into the system in the Japanese Patent Application so that the security level of the vehicle can be improved.

As per claims 4-5, the additionally claimed feature of detecting a distinctive feature of the vehicle occupant to generate the image data and subsequently comparing the image data with the reference image data is taught in column 11 of the Lemelson et al reference.

4. Claims 6-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemelson et al (patent no. 6400835) in view of Shimomura et al (patent no 6879247).

As per claims 6 and 9-10, figures 1-4 of the Lemelson et al reference disclose a method for controlling a vehicle including the steps of verifying whether a vehicle occupant is an authorized user and enabling the starting the engine when the vehicle occupant is verified as the authorized user. It is noted that the claimed feature of transmitting a request signal to a predetermined area defined around the vehicle and unlocking the door when receiving a response signal in response to the request signal has not been disclosed in the Lemelson et al reference. However, such missing feature in Lemelson et al is well known in the art and clearly taught in figure 1 (see items 12, 14, 10, 16 and col. 7, lines 27-62) of the Shimomura et al reference. A person having ordinary skill in the art would have been motivated to incorporate such well known feature, based upon the teaching found in Shimomura et al, into the Lemelson et al

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method so that the door can only be opened when the response signal is received in response to the transmitted request signal to provide a more secured vehicle entry method.

As per claims 7-8, the additionally claimed feature of imaging the distinctive feature of the vehicle occupant and comparing with the reference data that is registered beforehand is taught in column 11 of the Lemelson et al reference.

5. Claims 2-3 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The additional references are cited to show the related systems. In particular, patent no. 5812067 to Bergholz is cited to show the feature of employing an image device to identify the vehicle occupant as the authorized user is well known. Applicant(s) should consider them carefully when responding to the current office action.

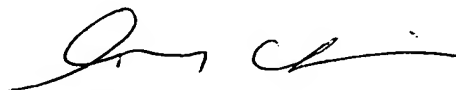
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Chin whose telephone number is (571) 272-6959. The examiner can normally be reached on Monday-Friday 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas G. Black can be reached on (571) 272-6956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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GARY CHIN  
PRIMARY EXAMINER